

### Remarks

In the Office Action mailed February 27, 2006:

1. Claims 1-27 were rejected under 35 U.S.C. § 101 as being directed to non-patentable subject matter.

#### I Rejections under 35 U.S.C. § 101

Independent method claim 32 was amended to recite a practical application of maintaining a count indicating the size of an inter-packet gap to apply after a packet.

In rejecting apparatus claims 1, 12, 19 and 26 under 35 U.S.C. § 101, the Examiner cited *Gottschalk v. Benson*, but the cited holding refers to “acts of a claimed process.” Claims 1, 12, 19 and 26 are not directed to acts or processes; they are directed toward electronic circuits, which are inherently tangible.

In Section IV of the USPTO’s recent Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (OG Notice: 22 November 2005, reviewed at <http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>), entitled Determine Whether The Claimed Invention Complies With The Subject Matter Eligibility Requirement of 35 U.S.C. Sec. 101, several steps are identified:

#### A. Consider the Breadth of 35 U.S.C. Sec. 101 Under Controlling Law

Claims 1, 12, 19 and 26 are believed to clearly fall under at least one of the four categories of appropriate subject matter: processes, machines, manufactures and compositions of matter.

#### B. Determine Whether the Claimed Invention Falls Within an Enumerated Statutory Category

Claims 1, 12, 19 and 26 are believed to clearly fall under at least one of the three “products” categories: machines, manufactures and compositions of matter.

#### C. Determine Whether the Claimed Invention Falls Within Sec. 101 Judicial Exceptions

Claims 1, 12, 19 and 26 are not directed toward a law of nature, natural phenomena or an

abstract idea – they are directed toward electronic circuits. Even if the Examiner believes the claims include excluded subject matter, Applicant asserts that the claims recite practical applications of such subject matter producing useful, tangible and concrete, as described below in Section II of this Reply.

## II Selected Claims

### A. **Claims 1-11**

Claim 1 is directed to an “inter-packet gap configuration module.” As recited in the specification (e.g., page 5, lines 25-27), such a module may comprise an electronic circuit similar to inter-packet gap extender 100 of FIG. 1. The subject matter of claim 1 is therefore inherently tangible and practical, and cannot be characterized as being wholly within the scope of excluded subject matter (i.e., a law of nature, a natural phenomenon, an abstract idea).

The preamble to claim 1 identifies a practical application for the claimed subject matter, in that it specifies that the module can determine a suitable inter-packet gap to be applied after a packet. Further, the “signal means” element of claim 1 is configured for “generating a signal” – which is believed to qualify as “useful,” “tangible” and “concrete.”

### B. **Claims 12-18**

Claim 12 is directed to a “programmable inter-packet gap (IPG) configuration module.” As recited in the specification (e.g., page 5, lines 25-27), such a module may comprise an electronic circuit similar to inter-packet gap extender 100 of FIG. 1. The subject matter of claim 12 is therefore inherently tangible and practical, and cannot be characterized as being wholly within the scope of excluded subject matter (i.e., a law of nature, a natural phenomenon, an abstract idea).

The preamble to claim 12 specifies that the module can calculate a number of inter-packet gap elements to apply after a packet, and therefore identifies a practical application for the claimed subject matter. Further, the “signaller” element of claim 12 is configured to “generate an IPG extension signal” – which is believed to qualify as “useful,” “tangible” and “concrete.”

### **C. Claims 19-25**

Claim 19 is directed to an “apparatus for calculating an inter-packet gap extension.” The subject matter of claim 19 is therefore inherently tangible and practical, and cannot be characterized as being wholly within the scope of excluded subject matter (i.e., a law of nature, a natural phenomenon, an abstract idea).

The “comparator” element of claim 19 is configured for “generating an inter-packet gap extension signal” – which is believed to qualify as “useful,” “tangible” and “concrete.”

### **D. Claims 26-31**

Claim 26 is directed to an “inter-packet gap (IPG) extender”, an illustrative implementation of which is depicted in FIG. 1. The subject matter of claim 26 is therefore inherently tangible and practical, and cannot be characterized as being wholly within the scope of excluded subject matter (i.e., a law of nature, a natural phenomenon, an abstract idea).

The “comparator” element of claim 26 is configured to “issue an extension signal”, the “first multiplexer” is configured to “issue one of said incremented measure and said decremented measure”, and the “second multiplexer” is configured to “issue one of said current IPG extension and said incremented IPG extension” – all of which are believed to qualify as “useful,” “tangible” and “concrete.”

### **E. Claims 32-37**

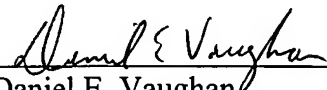
Claim 32 was amended to apply the count of the size of an IPG (inter-packet gap) to delay transmission of a subsequent packet. This amendment is believed to make the practical application of the subject matter of claim 32 even clearer.

## **CONCLUSION**

No new matter has been added with the preceding amendments. It is submitted that the application is in suitable condition for allowance. Such action is respectfully requested. If prosecution of this application may be facilitated through a telephone interview, the Examiner is invited to contact Applicant’s attorney identified below.

Respectfully submitted,

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